

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PATRICK PHILIP DECAROLIS,

Case No. 2:14-cv-01379-KJD-PAL

Petitioner,

ORDER

v.

BRIAN WILLIAMS, et al.,

Respondents.

This habeas matter comes before the court on motions to extend time as well as petitioner Patrick Philip Decarolis's third motion for appointment of counsel (ECF No. 45).

As the court has explained previously, there is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). The petition on file in this action appears sufficiently clear in presenting the issues that petitioner wishes to raise, and the legal issues do not appear to be overly complex. The court further notes that petitioner

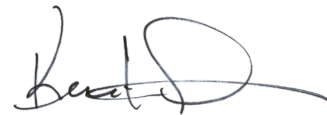
1 states that he seeks counsel in order that counsel procure a store surveillance
2 videotape; however, there is no evidence that a security video exists (see exh. 118 to
3 respondents' motion to dismiss, ECF No. 21). Petitioner has also filed a motion for
4 clarification, which appears to be a supplement to his motion for counsel and again
5 seeks appointed counsel in order to locate surveillance video. Petitioner's third motion
6 for counsel and the motion for clarification are both denied.

7 **IT IS THEREFORE ORDERED** that petitioner's third motion for appointment of
8 counsel (ECF No. 45) is **DENIED**.

9 **IT IS FURTHER ORDERED** that petitioner's motion for clarification (ECF No. 47)
10 is **DENIED**.

11 **IT IS FURTHER ORDERED** that respondents' first and second motions to extend
12 time to file their answer to the petition (ECF Nos. 41 and 42) are both **GRANTED** *nunc*
13 *pro tunc*.

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16 DATED: 8 March 2017.



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18 KENT J. DAWSON
19 UNITED STATES DISTRICT JUDGE
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